

REMARKS

Non-elected claims 1-12 and 21-28 have been canceled. Claim 13 has been amended to remove a term lacking antecedent basis. New claims 29-32 have been added.

In the office action, claim 20 has been rejected as being indefinite because the limitation "the step of tack sealing" has insufficient antecedent basis. In response to this ground for rejection, claim 20 has been amended to remove the offending phrase "the step of".

In the action, claims 13-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,121,997 to Pierre *et al.* The Applicant traverses this ground of rejection for the following reasons.

To establish a *prima facie* case of obviousness, three basic criteria must be met, as set forth at MPEP 706.02(j). First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the combined prior art references must teach or suggest all the claim limitations. The Applicant respectfully submits that the

obviousness rejection is insupportable because Pierre does not disclose every limitation of independent claim 13. Nor does Pierre contain any suggestion or motivation for including a slider on the zipper, as explained in detail below.

Independent claim 13 recites that a slider is inserted on a zipper, that the zipper flanges are joined to a web, and that thereafter the web with attached slider-zipper assembly is attached to a pre-made bag. Pierre does not disclose a slider. Pierre does not disclose a pre-made bag. Pierre does not disclose joining a zipper to a web, which web is then joined to a pre-made bag. In the absence of the claim limitations from the Pierre disclosure, the Applicant respectfully submits that a *prima facie* case of obviousness has not been established.

Furthermore, close scrutiny of the manner in which the Examiner tries to read the limitations of claim 13 on the Pierre disclosure reveals that the same method steps of attaching a zipper membrane to top and bottom webs have been used twice: once to satisfy Applicant's limitations (c) and (d) in claim 13 that the zipper flanges are joined to a web; and once to satisfy Applicant's limitations (f) and (g) of claim 13 that the web is joined to a pre-made bag. With respect to limitations (c) and (d), the Examiner cites to Figures 4 and 5

of Pierre, which show a zipper membrane being joined to top and bottom webs 16 and 18. With respect to limitations (f) and (g), the Examiner cites to Figures 11-13 of Pierre, which again show a zipper membrane joined to top and bottom webs 16 and 18. It is improper to read some limitations of claim 13 on one embodiment of Pierre and read other limitations of the claim on other embodiments of Pierre, especially when the different embodiments of Pierre all share the common structure that a zipper membrane is joined to top and bottom webs of the container.

Furthermore, as previously mentioned, Pierre does not disclose a pre-made bag to which a zipper membrane is attached. On the contrary, as seen in Figure 14 of Pierre, his method of manufacture involves forming cavities in a bottom web, which cavities are filled with product; sealing the zipper membrane to the bottom web; and then sealing a top web to the bottom web and the zipper membrane. There is no hint or suggestion that the zipper membrane could be attached to a pre-made bag.

Lastly, the Examiner concedes that Pierre does not disclose a slider mounted to the zipper, but asserts it would be obvious to do so. The Applicant respectfully disagrees. The Pierre disclosure is clearly limited to a folded membrane having opposing zipper profiles integrally extruded thereon. As best seen in Figures 4 and 5 of Pierre, it is not possible to mount a

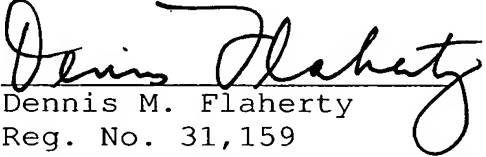
slider on the zipper elements 32 and 34. Accordingly, it would not have been obvious to incorporate a slider on the zipper taught by Pierre.

The Applicant submits that new independent method claim 29 is allowable for some of the reasons set forth above, namely: Pierre discloses neither a slider nor a pre-made bag.

In view of the foregoing, the Applicant submits that this application is now in condition for allowance. Reconsideration of the application and allowance of claims 13-20 and 29-32 are hereby requested.

Respectfully submitted,

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Date


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